



HYDRAULIC PROJECT APPROVAL

RCW 75.20.100 or RCW 75.20.108

State of Washington
Department of Fish and Wildlife
Habitat Program
600 Capitol Way North, MS 3155
Olympia, Washington 98501-1091

DATE OF ISSUE: December 29, 1998

LOG NUMBER: 00-63131-02

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Washington Department of Transportation ATTENTION: Ben Klein Transportation Building, Room SC-06 Olympia, WA 98504-7318 (360) 705-7011	Not Applicable

PROJECT DESCRIPTION: Replace Piles.

PROJECT LOCATION: See Attachment.

#	<u>WRIA</u>	<u>WATER BODY</u>	<u>TRIBUTARY TO</u>	<u>1/4 SEC.</u>	<u>SEC.</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>COUNTY</u>
1	Various	Marine Areas	Puget Sound	NA	NA	See Attach.	Various	Various

NOTE: This Five-Year Hydraulic Project Approval (HPA) is a renewal of an existing HPA and issued to the Washington State Department of Transportation (WSDOT) for maintenance replacement of up to eight piles. Projects involving new construction or more than eight piles are not approved under this HPA and must receive individual HPAs before proceeding.

The Washington Department of Fish and Wildlife (WDFW) discourages the use of pilings, lumber, and other materials treated with cresosote or other preservatives and recommends instead the use of steel, concrete, recycled plastic or other non-toxic materials.

WDFW is concerned about the use of creosote and other wood preservatives in the aquatic environment. The primary concern with the use of treated wood products in the aquatic environment is the actual and potential loss of toxic and persistent chemicals. In the aquatic environment, these chemicals may cause and/or contribute to potential adverse biological effects and the degradation of the surrounding habitat. Due to these factors, WDFW requests that alternative materials including concrete, steel, or recycled plastic piles be utilized. The additional cost of these alternatives can be offset by their benefits. These include: longer product life, increased structural support capability, reduced disposal costs, lower costs of driving, and fewer piles. WDFW requests that these alternatives be utilized to reduce adverse effects on fish life.

PROVISIONS

- TIMING LIMITATIONS:** The project may begin **Immediately** and shall be completed by **December 31, 2003**, provided:
 - Work below the ordinary high water line shall not occur from **March 15** through **June 14** of any year for the protection of migrating juvenile salmonids.
- ANNUAL REVIEW:** This HPA shall be reviewed annually to determine its adequacy and to ensure the continued protection of fish habitat. Each year in February the WSDOT permit coordinator shall request information from WDFW liaison concerning any unresolved problems relating to actions conducted under the authority of this HPA. If there are unresolved problems, the WSDOT permit coordinator shall set up a



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meeting with the affected construction supervisor, WDFW Regional Habitat Program Manager, and Olympia Regulatory staff to resolve these problems and make any necessary changes to either the maintenance operations or this HPA. This meeting shall be held no later than April of the same calendar year.

3. **NOTIFICATION REQUIREMENT:** Prior to the start of any operation, including an emergency action, the local Area Habitat Biologist (AHB) shall be notified (contact list attached). Except in the case of an emergency, the notification shall be at least seven (7) working days prior to the actual work activity. Notification may be by mail, FAX, or phone and shall include the starting date, description of work, location, a contact phone number, and the control number of this HPA.
4. This HPA is for replacement of existing piles only and shall not result in the expansion of the structure.
5. All treated wood piling and lumber to be used for the project shall meet or exceed the standards established in the most current edition of, "Best Management Practices For the Use of Treated Wood in Aquatic Environments" developed by the Western Wood Preservers Institute. At the time of issuance of this HPA, the most current version is the July, 1996 edition.
6. All piling, lumber, and other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed.
7. All existing damaged pilings shall be removed and disposed of upland such that they do not reenter waters of the state.
8. All debris or deleterious materials resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.
9. Project activities shall be conducted to minimize siltation of the beach area and bed.
10. If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and WDFW habitat Program shall be notified immediately.
11. Debris from treated wood as the result of field alterations shall be contained and prevented from contacting the beach, bed, or waters of the state.
12. No petroleum products or other deleterious materials shall enter surface waters.
13. Project activities shall not degrade water quality to the detriment of fish life.
14. Treated piling or structures built of treated wood shall incorporate design features, such as steel, plastic, or rubber collars or fendering systems, to prevent or minimize the abrasion of the treated wood by floats, ramps, or vessels.



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15. Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion.

SEPA: Exempt, no other non-exempt permits

APPLICATION ACCEPTED: January 12, 1994

ENFORCEMENT OFFICER: Tuggle [028] [P3]

James Uehara (360) 902-2566
Habitat Management Program

for Director
WDFW

Enclosure(s): Area Habitat Biologist List
WFS Facilities

cc: Marine Area Habitat Biologists

GENERAL PROVISIONS

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 75.20). Additional authorization from other public agencies may be necessary for this project.

This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.

This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 75.20.100 or 75.20.160 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 75.20.103 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee; PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 75.20.130.

APPEALS - GENERAL INFORMATION

IF YOU WISH TO APPEAL A DENIAL OF OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.



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A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100, 75.20.103, 75.20.106, AND 75.20.160:

A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA; or
- (B) An order imposing civil penalties.

It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100 OR 75.20.106:

A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA;
- (B) An order imposing civil penalties; or
- (C) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.103 or 75.20.160:

A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.

Terminal Location	Section	Township	Range	County	Area Habitat Biologist
Anacortes	22	35	01E	Skagit	Brian Williams
Bainbridge Island	26	25	02E	Kitsap	Jim Brennan
Bremerton	24	24	01E	Kitsap	Jim Brennan
Clinton	30	29	04E	Island	Earl Dorman
Eagle Harbor	26	25	02E	Kitsap	Doris Small
Edmonds	23	27	03E	Snohomish	Pam Erstad
Fauntleroy	35	24	03E	King	Pam Erstad
Friday Harbor	13	35	03W	San Juan	Brian Williams
Keystone	22	31	01E	Island	Earl Dorman
Kingston	25	27	02E	Kitsap	Jim Brennan
Lopez Island	36	36	02W	San Juan	Brian Williams
Mukilteo	04	28	04E	Snohomish	Pam Erstad
Orcas Island	22	36	02W	San Juan	Brian Williams
Point Defiance	14	21	02E	Pierce	Steve Keller
Port Townsend	11	30	01W	Jefferson	Jim Brennan
Seattle	06	24	04E	King	Pam Erstad
Shaw Island	27	36	02W	San Juan	Brian Williams
Southworth	01	23	02E	Kitsap	Doris Small
Tahlequah	02	21	02E	King	Pam Erstad
Vashon Island	06	23	03E	King	Pam Erstad

Jim Brennan	(360) 895-4757
Earl Dorman	(425) 379-2307
Pam Erstad	(425) 379-2306
Steve Keller	(360) 249-1223
Brian Williams	(360) 428-1053